

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 14196 of 1993****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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LAXMANBHAI MULJIBHAI - Petitioner(s)

Versus

STATE OF GUJARAT & OTHERS & 4 - Respondent(s)

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Appearance :

MR CB DASTOOR for Petitioner No(s).: 1.

GMR KL PANDYA A.G.P. for Respondent No(s).: 1.

M/S PATEL ADVOCATES for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 01/08/2005

ORAL JUDGMENT

1. The petitioner has by way of this petition has prayed for the following reliefs :-

- (A) "To allow the petition.
- (B) To direct the respondent no. 2 to pass the claim of the

- petitioner with 21% interest on it forthwith.
- (C) To hold that the order of the Labour Court at Annexure-B to the petition was bad in law to the extent it denied reinstatement and back wages to the petitioner after the appointed date.
- (D) To hold that the former order below Exh.34 in T. Application No. 146/78 under C.I. Rule 10 of C.P.C. For joining respondent No. 3 is a necessary and proper party was rejected and confirmed by this Hon'ble Court being on the premises of past wages, has no application to the case of the petitioner in (T) Application No. 146/78 and 156/92 both and Labour Court committed an error of not permitting to join the respondent no. 3 and also erred in wrongly applying the above judgment and refused reinstatement to the petitioner.
- (E) To hold that neither the petitioner nor his case of reinstatement is a post "liability" within the meaning of Section 5 of the Gujarat Closed Textile Undertaking (Nationalization) Act, 1986.
- (F) To hold that Section 11 of the Gujarat Closed Textile Undertakings (Nationalization) Act, 1986 do not provide automatic termination/alteration of employment of the petitioner.
- (G) To hold that the Labour Court and Industrial Court were in error while refusing the interim relief on wrong application of the judgment and therefore petitioner was entitle to the interim relief. And further to quash and set aside the order passed in Revision Application

- (IC) No. 31/92.
- (H) To hold that even in the case of such employees whose names are on the muster roll of the Company on the appointed date are if not required an order terminating their services is a must u/s. 11 of the Nationalization Act.
- (I) To further hold that petitioner's case do not fall under Section 5 & 11 and there is no immunity given to the respondents no. 1, 3 & 5 so petitioner is entitle to claim reinstatement and back wages after the appointed date against the respondents no. 1, 3 and 5 and Labour Court is competent to pass such an order and by not passing such an order it has committed an error of law while passing an order at annexure-B to this petition and direct the respondent no. 3 and 5 to reinstate the petitioner in service on his original post with continuity of service with full back wages with 21% interest on the back wages till realization.
- (J) To hold that on the pending cases, discharge/dismissal/termination Section 5 or 11 of the Act No. 10/86 will have no effect and the petitioner is entitle to reinstatement in service of respondent no. 3 and 5.
- (K) To direct the respondent no. 4 to prosecute respondents no. 2, 3 & 5 for non compliance of the order at annexure-E to this petition.
- (L) To direct the respondent no. 4 to hold a departmental inquiry against the responsible delinquent officer of its department for giving evasive reply to the petitioner and

- failure to perform its statutory duty of prosecute the respondent no. 2, 3 & 5 and if found guilty punish them departmentally.'
- (M) Pending admission, hearing and final disposal of this petition, by way of an ex-parte ad-interim relief the respondents no. 3 and 5 be directed to permit the petitioner to resume the duty.
- (N) Pending admission, hearing and final disposal of this petition by way of an ex-parte ad-interim relief direct the respondents no. 1 to 3 to deposit Rs.1,59,950=00 in this Hon'ble Court and thereafter permit the petitioner to withdraw the same.
- (O)
- (P)"

2. Having perused the materials produced on record, it transpires that this Court while admitting the matter on 30th August, 1994 has issued the following directions :-

"5. In view of what is stated above, the Commissioner of Payments, that is, respondent no. 2 is directed to examine the claim of the petitioner based on the award of the Labour Court dated 18th January, 1980 in T Application No. 141 of 1978. He may do so by issuing a notice to the Gujarat State Textile Corporation and after hearing both of them. The amount found due thereafter will be deposited by the respondent no. 2 with the Registrar of this Court. I am told by Mr. Shaikh that in similar matters the Registrar of this Court has been directed to receive such deposits. On the amount being so deposited, the petitioner will be at liberty to withdraw the same by giving necessary

security to the satisfaction of the Registrar.

The aforesaid exercise to be completed by the Commissioner of Payments within eight weeks from the date of receipt of writ of this Court."

3. In above view of the matter, it is clear that the prayers which were claimed by the petitioner were granted by this Court as aforesaid. Apart from that since respondent no. 3 has gone into liquidation, no other reliefs can be granted further. Hence, the petition stands disposed of. Rule is discharged with no order as to costs. Interim relief, if any, stands vacated. Liberty to apply in case of difficulty.

[K.S. JHAVERI, J.]

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